

ASSEMBLY BILL

No. 212

Introduced by Assembly Member Lowenthal

January 31, 2013

An act to amend Sections 1513.5, 1520, and 1530 of the Code of Civil Procedure, relating to unclaimed property.

LEGISLATIVE COUNSEL'S DIGEST

AB 212, as introduced, Lowenthal. Unclaimed property.

The Unclaimed Property Law (UPL) specifies the circumstances under which unclaimed personal property held by a banking or financial institution, business association, or other holder of personal property escheats to the state. The UPL requires a banking or financial organization, if it has in its records an address for the apparent owner, which the records do not disclose to be inaccurate, to make reasonable efforts to notify by mail any customer that the customer's deposit, account, shares, or other interest in the banking or financial organization will escheat to the state, as specified. The UPL provides an exception from this notice requirement for deposits, accounts, shares, or other interests of less than \$50. The UPL authorizes a banking or financial organization to impose a service charge for the notice on the deposit, account, shares, or other interest in an amount up to \$2 but not exceeding the administrative cost of mailing or electronically sending the notice, but prohibits a banking or financial institution from imposing a service charge for notice on items of less than \$50. The UPL requires every person holding funds or other property that escheated to the state to submit a report to the Controller that includes, among other items, the name and last known address of each person appearing to be the owner of any property worth at least \$50 that escheated to the state and, for

items worth less than \$50, the nature and identifying number, if any, or description of any intangible property reported in aggregate.

This bill would delete the notice exception for a deposit, account, shares, and other interest of less than \$50, thereby requiring a banking or financial institution to make reasonable efforts to notify the customer regardless of the value of the interest. The bill would authorize a banking or financial institution to impose a service charge for notice if the deposit, account, shares, or other interest has a value greater than \$2. The bill would require a person holding funds or other property escheated to the state to include in its report to the Controller the name and last known address of each person appearing to be the owner of any property escheated to the state, regardless of its value. The bill would allow the holder to report information regarding escheated items worth less than \$50 in aggregate if the name of the owner is not known and there is no last known address in the records of the holder. The bill also would make conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1513.5 of the Code of Civil Procedure
2 is amended to read:

3 1513.5. (a) ~~Except as provided in subdivision (e), if~~ If the
4 holder has in its records an address for the apparent owner, which
5 the holder's records do not disclose to be inaccurate, every banking
6 or financial organization shall make reasonable efforts to notify
7 any owner by mail or, if the owner has consented to electronic
8 notice, electronically, that the owner's deposit, account, shares, or
9 other interest in the banking or financial organization will escheat
10 to the state pursuant to clause (i), (ii), or (iii) of subparagraph (A)
11 of paragraph (1), (2), or (6) of subdivision (a) of Section 1513.
12 The holder shall give notice either:

13 (1) Not less than two years nor more than two and one-half
14 years after the date of last activity by, or communication with, the
15 owner with respect to the account, deposit, shares, or other interest,
16 as shown on the record of the banking or financial organization.

17 (2) Not less than 6 nor more than 12 months before the time the
18 account, deposit, shares, or other interest becomes reportable to
19 the Controller in accordance with this chapter.

(b) The notice required by this section shall specify the time that the deposit, account, shares, or other interest will escheat and the effects of escheat, including the necessity for filing a claim for the return of the deposit, account, shares, or other interest. The face of the notice shall contain a heading at the top that reads as follows: “THE STATE OF CALIFORNIA REQUIRES US TO NOTIFY YOU THAT YOUR UNCLAIMED PROPERTY MAY BE TRANSFERRED TO THE STATE IF YOU DO NOT CONTACT US,” or substantially similar language. The notice required by this section shall, in boldface type or in a font a minimum of two points larger than the rest of the notice, exclusive of the heading, (1) specify that since the date of last activity, or for the last two years, there has been no owner activity on the deposit, account, shares, or other interest; (2) identify the deposit, account, shares, or other interest by number or identifier, which need not exceed four digits; (3) indicate that the deposit, account, shares, or other interest is in danger of escheating to the state; and (4) specify that the Unclaimed Property Law requires banking and financial organizations to transfer funds of a deposit, account, shares, or other interest if it has been inactive for three years. It shall also include a form, as prescribed by the Controller, by which the owner may declare an intention to maintain the deposit, account, shares, or other interest. If that form is filled out, signed by the owner, and returned to the banking or financial organization, it shall satisfy the requirement of clause (iii) of subparagraph (A) of paragraph (1), clause (iii) of subparagraph (A) of paragraph (2), or clause (iii) of subparagraph (A) of paragraph (6) of subdivision (a) of Section 1513. In lieu of returning the form, the banking or financial organization may provide a telephone number or other electronic means to enable the owner to contact that organization. The contact, as evidenced by a memorandum or other record on file with the banking or financial organization, shall satisfy the requirement of clause (iii) of subparagraph (A) of paragraph (1), clause (iii) of subparagraph (A) of paragraph (2), or clause (iii) of subparagraph (A) of paragraph (6) of subdivision (a) of Section 1513. ~~The~~ *If the deposit, account, shares, or other interest has a value greater than two dollars (\$2), the* banking or financial organization may impose a service charge on the deposit, account, shares, or other interest for this notice in an amount not to exceed

1 the administrative cost of mailing or electronically sending the
2 notice and form and in no case to exceed two dollars (\$2).

3 ~~(e) Notice as provided by subdivisions (a) and (b) shall not be~~
4 ~~required for deposits, accounts, shares, or other interests of less~~
5 ~~than fifty dollars (\$50), and no service charge may be made for~~
6 ~~notice on these items.~~

7 ~~(d)~~

8 (c) In addition to the notices required pursuant to subdivision
9 (a), the holder may give additional notice as described in
10 subdivision (b) at any time between the date of last activity by, or
11 communication with, the owner and the date the holder transfers
12 the deposit, account, shares, or other interest to the Controller.

13 ~~(e)~~

14 (d) At the time a new account is opened with a banking or
15 financial organization, the organization shall provide a written
16 notice to the person opening the account informing the person that
17 his or her property may be transferred to the appropriate state if
18 no activity occurs in the account within the time period specified
19 by state law. If the person opening the account has consented to
20 electronic notice, that notice may be provided electronically. ~~This~~
21 ~~subdivision shall become effective on January 1, 2011.~~

22 SEC. 2. Section 1520 of the Code of Civil Procedure is
23 amended to read:

24 1520. (a) All tangible personal property located in this state
25 and, subject to Section 1510, all intangible personal property,
26 except property of the classes mentioned in Sections 1511, 1513,
27 1514, 1515, 1515.5, 1516, 1517, 1518, 1519, and 1521, including
28 any income or increment thereon and deducting any lawful charges,
29 that is held or owing in the ordinary course of the holder's business
30 and has remained unclaimed by the owner for more than three
31 years after it became payable or distributable escheats to this state.

32 (b) Except as provided in subdivision (a) of Section 1513.5,
33 subdivision (b) of Section 1514, and subdivision (d) of Section
34 1516, if the holder has in its records an address for the apparent
35 owner of property valued at fifty dollars (\$50) or more, which the
36 holder's records do not disclose to be inaccurate, the holder shall
37 make reasonable efforts to notify the owner by mail or, if the owner
38 has consented to electronic notice, electronically, that the owner's
39 property will escheat to the state pursuant to this chapter. The
40 notice shall be mailed not less than 6 nor more than 12 months

before the time when the owner's property held by the business becomes reportable to the Controller in accordance with this chapter. The face of the notice shall contain a heading at the top that reads as follows: "THE STATE OF CALIFORNIA REQUIRES US TO NOTIFY YOU THAT YOUR UNCLAIMED PROPERTY MAY BE TRANSFERRED TO THE STATE IF YOU DO NOT CONTACT US," or substantially similar language.

The notice required by this subdivision shall specify the time when the property will escheat and the effects of escheat, including the need to file a claim in order for the owner's property to be returned to the owner. The notice required by this section shall, in boldface type or in a font a minimum of two points larger than the rest of the notice, exclusive of the heading, (1) specify that since the date of last activity, or for the last two years, there has been no owner activity on the deposit, account, shares, or other interest; (2) identify the deposit, account, shares, or other interest by number or identifier, which need not exceed four digits; (3) indicate that the deposit, account, shares, or other interest is in danger of escheating to the state; and (4) specify that the Unclaimed Property Law requires holders to transfer funds of a deposit, account, shares, or other interest if it has been inactive for three years. It shall also include a form, as prescribed by the Controller, by which the owner may confirm the owner's current address. If that form is filled out, signed by the owner, and returned to the holder, it shall be deemed that the account, or other device in which the owner's property is being held, remains currently active and recommences the escheat period. In lieu of returning the form, the holder may provide a telephone number or other electronic means to enable the owner to contact the holder. With that contact, as evidenced by a memorandum or other record on file with the holder, the account or other device in which the owner's property is being held shall be deemed to remain currently active and shall recommence the escheat period. The holder may impose a service charge on the deposit, account, shares, or other interest for this notice in an amount not to exceed the administrative cost of mailing or electronically sending the notice and form, and in no case to exceed two dollars (\$2).

(c) In addition to the notice required pursuant to subdivision (b), the holder may give additional notice as described in subdivision (b) at any time between the date of last activity by, or

1 communication with, the owner and the date the holder transfers
2 the property to the Controller.

3 (d) For purposes of this section, “lawful charges” means charges
4 which are specifically authorized by statute, other than ~~the~~
5 ~~Unclaimed Property Law this chapter~~, or by a valid, enforceable
6 contract.

7 SEC. 3. Section 1530 of the Code of Civil Procedure is
8 amended to read:

9 1530. (a) Every person holding funds or other property
10 escheated to this state under this chapter shall report to the
11 Controller as provided in this section.

12 (b) The report shall be on a form prescribed or approved by the
13 Controller and shall include:

14 (1) Except with respect to traveler’s checks and money orders,
15 the name, if known, and last known address, if any, of each person
16 appearing from the records of the holder to be the owner of any
17 property ~~of value of at least fifty dollars (\$50)~~ escheated under
18 this chapter.

19 (2) In the case of escheated funds of life insurance corporations,
20 the full name of the insured or annuitant, and his or her last known
21 address, according to the life insurance corporation’s records.

22 (3) In the case of the contents of a safe deposit box or other
23 safekeeping repository or in the case of other tangible property, a
24 description of the property and the place where it is held and may
25 be inspected by the Controller. The report shall set forth any
26 amounts owing to the holder for unpaid rent or storage charges
27 and for the cost of opening the safe deposit box or other
28 safekeeping repository, if any, in which the property was contained.

29 (4) The nature and identifying number, if any, or description of
30 any intangible property and the amount appearing from the records
31 to be due, except that items of value under fifty dollars (\$50) each
32 may be reported in aggregate *if the name of the owner is unknown*
33 *and there is no last known address in the records of the holder*.

34 (5) Except for any property reported in the aggregate, the date
35 when the property became payable, demandable, or returnable,
36 and the date of the last transaction with the owner with respect to
37 the property.

38 (6) Other information which the Controller prescribes by rule
39 as necessary for the administration of this chapter.

1 (c) If the holder is a successor to other persons who previously
2 held the property for the owner, or if the holder has changed his
3 or her name while holding the property, he or she shall file with
4 his or her report all prior known names and addresses of each
5 holder of the property.

6 (d) The report shall be filed before November 1 of each year as
7 of June 30 or fiscal yearend next preceding, but the report of life
8 insurance corporations, and the report of all insurance corporation
9 demutualization proceeds subject to Section 1515.5, shall be filed
10 before May 1 of each year as of December 31 next preceding. The
11 initial report for property subject to Section 1515.5 shall be filed
12 on or before May 1, 2004, with respect to conditions in effect on
13 December 31, 2003, and all property shall be determined to be
14 reportable under Section 1515.5 as if that section were in effect
15 on the date of the insurance company demutualization or related
16 reorganization. The Controller may postpone the reporting date
17 upon his or her own motion or upon written request by any person
18 required to file a report.

19 (e) The report, if made by an individual, shall be verified by the
20 individual; if made by a partnership, by a partner; if made by an
21 unincorporated association or private corporation, by an officer;
22 and if made by a public corporation, by its chief fiscal officer or
23 other employee authorized by the holder.